



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

September 30, 1975

**The Honorable Jackie W. St. Clair
Commissioner, Department of
Labor and Standards
P. O. Box 12157
Austin, Texas 78711**

Opinion No. H- 700

**Re: Whether crew leaders, day
labor contractors and temporary
labor pools are "labor agents"
under article 5221a-5, V. T. C. S.**

Dear Commissioner St. Clair:

You have requested our opinion regarding whether crew leaders, day labor contractors and temporary labor pools should be deemed "labor agents" for purposes of article 5221a-5, V. T. C. S. You state that all three groups contract with a user employer to supply a labor pool, for which they recruit members. Each of the three groups is paid in a lump sum by the user employer, and each in turn pays its laborers a lower sum and retains the difference. You indicate that crew leaders and day labor contractors supply agricultural laborers, whom they pay on a piece rate basis. They generally do not operate out of a fixed office. Temporary labor pools, on the other hand, supply industrial laborers, pay them on an hourly basis, and operate out of a fixed office in an urban area.

Section 1(e) of article 5221a-5, as amended by Acts 1975, 64th Leg., ch. 182, at 409, defines "Labor Agent" as:

... any person in this State who, for a fee, offers or attempts to procure, or procures employment for employees, or without a fee offers or attempts to procure, or procures employment for common or agricultural workers; or any person who for a fee attempts to procure, or procures employees for an employer, or without a fee offers or attempts to procure common or agricultural workers for employ-

ers, or any person, regardless whether a fee is received or due, offers or attempts to supply or supplies the services of common or agricultural workers to any person. The term 'Labor Agent' includes any person who, for a fee, employs workers to render personal services in connection with the production of any farm products to, for, or under the direction of a third person, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing or producing of farm products, and who, for a fee, provides in connection therewith one or more of the following services: furnishes board, lodging, or transportation for such workers; supervises, times, checks, counts, weighs, or otherwise directs or measures the work; or disburses wage payments to the workers.

"Fee" is defined in section 1(b) as:

... anything of value including money or other valuable consideration or services or the promise of any of the foregoing received by a Labor Agent or Agency from or on behalf of any person seeking employment, or employers seeking employees, in payment for any service, either directly or indirectly. The term 'fee' includes the difference between the amount received by a Labor Agent and the amount paid out by him to persons employed to render personal services to, for, or under the direction of a third person.

"Person" means:

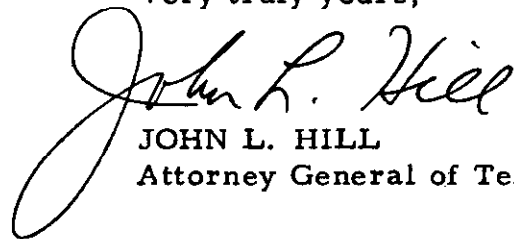
... an individual, partnership, association, corporation, legal representative, trustee, trustee in bankruptcy, or receiver. Article 522la-5, section 1(a).

Crew leaders, day labor contractors and operators of temporary labor pools all may be said both to "procure employment for employees" and to "procure employees for an employer." The definition of "fee" to include "the difference between the amount received by a Labor Agent and the amount paid out by him to persons employed to render personal services to, for, or under the direction of a third person" appears to comprehend the precise method by which you indicate that such laborers are compensated. Under the facts you state, it is our opinion that crew leaders, day labor contractors and temporary labor pools would be construed to be encompassed within the definition of "Labor Agent" provided in section 1(e).

SUMMARY

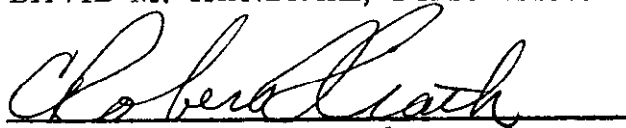
Crew leaders, day labor contractors and operators of temporary labor pools, as described, are "Labor Agents" for purposes of article 5221a-5, V. T. C. S.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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